



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Application of:)
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Gabor Vamberi)
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Serial No.: 10/656,417) Group Art Unit: 2875
)
Filed: September 5, 2003) Examiner: John A. Ward
)
Title: **LIGHT FIXTURE WITH FINS**)

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Commissioner for Patents
P.O. Box 1450
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicant requests review of the final rejections of the Examiner in the final Office Action mailed on October 18, 2005. No amendments are being filed with this Request. This Request is being filed with a Notice of Appeal. This review is requested in view of the remarks that follow.

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I hereby certify that this correspondence is being deposited with the United States Postal Service as EXPRESS MAIL in an envelope addressed to: MAIL STOP ISSUE AF, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on February 21, 2006.

Name: Kathryn Finder

Kathryn Finder 2/21/06
Signature Date 2/21/06

REMARKS FOR REQUEST FOR REVIEW

Claims 1-30 are pending. The pending claims set forth a novel and non-obvious housing for a customizable light fixture as well as a method for the fabrication of such a light fixture. Unlike most light fixtures whose appearance is fixed, the claimed light fixture has features that can be easily changed to reflect the desired look desired by the purchaser at the time. Moreover, this great versatility in appearance is achievable with the light fixture in a very inexpensive manner.

Claims 1-13, 15, and 17-30 were rejected under 35 U.S.C. §102(b) as being anticipated by materials from a website for Lutrex directed to its Torx model ceiling fixture. Claims 14 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Lutrex reference as applied to claim 13 and further in view of Blandford (U.S. Patent No. 6,720,566).

Rejection of Claims 1, 23, 26 and 27 under 35 U.S.C. §102(b)

Each of the independent claims 1, 23, 26 and 27 requires a body having a sidewall with a plurality of fin-engaging elements (slots in claim 26) and at least one fin removably engaged with at least one of the fin-engaging elements. Anticipation under §102(b) requires that the identical invention to that contained in a claim be described in a single prior art reference. Richardson v. Suzuki Motor Co., 868 F.2d 1226, 9 USPQ 2d 1913 (Fed. Cir. 1989).

Two Lutrex documents were filed by Applicant in an Information Disclosure Statement dated November 12, 2003. One document is a printout from the Lutrex website (www.lutrex.com) consisting of three pages and having a copyright of 2000. This document has two photographs of the Torx lighting fixture, each having an alternate diffuser. The third page of this document is a blow-up of the photograph on the first page. The second document is a printout from the same website consisting of four pages, the first two pages having a copyright of 2003 and the last two setting out specifications for the Torx product line having a copyright of January, 2003. A diagram of the housing of a Torx light fixture housing is shown on page 3 of the Office Action. This diagram is from page 3 of the web-pages having a copyright from 2003. The reliance by the Examiner on any disclosure or description provided solely by the pages comprising the second document is misplaced. Their date of publication, as reflected by their copyright, appears to be less than one year before the filing date of the present application, September 5, 2003, and thus would not constitute prior art under §102(b).

The Examiner in an Advisory Action mailed on February 2, 2006, states that “the prior art cited from the web pages copyrighted 2000 discloses all of the anticipated limitations including the fins being engagable to the slots on the housing of the light fixture.” Applicant respectfully submits that there is no

support for such an assertion. “The identical invention must be shown in as complete detail as is contained in the ... claim.” Richardson at 868 F.2d 1236, 9 USPQ2d 1920.

Although the ballast housing shown in the pictures from Lutrex is ribbed, there is nothing in this prior art reference that discloses that the lateral faces on this ribbing, the feature clearly defining the spacing or “slots” between adjacent ribbing, engage any of the fixture’s four side reflector blades when these blades are positioned between them within such spaces. In fact, the reference simply fails to show or describe in any manner how these “slots” hold such “fins.” Contrary to the assumption reached by the Examiner, each of the blades have a more reasonable appearance in these pictures of being rigidly secured to some recessed surface of the housing as if by means of spot or seam welding.

Even if the spacing between the ribbing of the ballast housing, as shown in the Lutrex pictures, could be said to disclose their engagement of the Torx blades in some fashion, the reference still lacks any teaching or showing that any of these blades are also removably engaged. In fact, nowhere in the final Office Action or the Advisory Action does the Examiner state that this specific limitation in claims 1, 23, 26 and 27 is even present in the cited reference.

Independent claim 26 adds the limitation that the body of the housing have a sidewall with a plurality of slots formed in the sidewall with each slot having a channel attached to the interior surface of the sidewall. The housing is also required to have a plurality of fins where each fin has a pair of flanges extending from its rear edge and is removably engaged with at least one of the slots. Each slot is formed to slidably receive and engage each fin whereby the flanges of the fin engage the interior surface and are slidably received and engaged by the slot’s channel so that the fin is held in place. The housing further includes at least one strip having a series of LED elements that is secured between at least one fin made from translucent material and at least one channel. None of these limitations is disclosed by any of the Lutrex materials. This is apparently not disputed by the Examiner since he fails to point out anywhere in the final Office Action what he considers to be the features that are shown in the pictures of the reference or that are described in the writings associated with these pictures that enable any of these claimed elements. There is thus no basis for his summary rejection of claim 26 as being anticipated by Lutrex.

For each of the above reasons, the housing for a light fixture set forth in independent claims 1, 23, 26 or 27 is not anticipated by the cited Lutrex reference. Claims 2-22, 24-25, and 28-30 are dependent from these claims. Applicant respectfully asks that the rejection of claims 1, 23, 26 and 27 be withdrawn and that claims 1-30 be allowed.

Specific Rejection of Claims 3-6, 11-13, 19, 24-25, and 28-29 under 35 U.S.C. §102(b)

Claim 3 adds the limitation that the housing have a plurality of fins that are equivalent to the plurality of fin-engaging elements. The Torx fixtures are clearly shown in the photographs of the

reference as having half as many blades as the available spacing between the protruding ribbing of its ballast housing – even if it could arguably be said that these gaps were disclosed as blade-engaging. Contrary to the statement of the Examiner in the Advisory Action, this desirable feature of the invention is pointed out and described at page 3, line 18 of the specification. For this additional reason, Applicant believes that the specific rejection of claim 3 has been traversed.

Claims 4 and 25 require that the plurality of fins be less than the plurality of fin-engaging elements whereby the fins are selectively placed around the sidewall of the housing. While the blades shown in the pictures of the Torx fixtures are indeed less than the supposed “slots” in their ballast housings, there is no enabling disclosure in the reference that teaches that these blades can be selectively placed. Quite to the contrary, given their size and location upon the Torx housing, the more reasonable inference is that each blade needs to be positioned directly opposite from a nearly identical blade in order to maintain the fixture in proper balance. On this basis, Applicant submits that the specific rejections of claims 4 and 25 should also be withdrawn.

Claim 5 adds the limitation that at least one fin differs from another in shape, color or material. Claim 24 adds the step of choosing one fin from a group of fins of differing character. Neither of these elements is disclosed by the Lutrex reference. In particular, Lutrex teaches only four blades of identical shape, identical color and identical material. While different colors may be available for painting the blades so that they match the color of the ballast housing, nowhere on any of these pages from the Lutrex website is it suggested that any one blade is painted a different color from any of the other three. Claims 5 and 24 are therefore not anticipated by the reference cited by the Examiner and both claims should be allowed.

Claim 6 sets forth that at least one fin have a surface displaying indicia. Indicia is well understood to constitute distinctive graphic markings such as those shown in FIGS. 6D and 6E of the present application. The Lutrex reference discloses no indicia on any of the blades mounted on the Torx lighting fixture. While the blades are shown with decorative perforations, these are not indicia displayed on the surface of the blades. The specific rejection of claim 6 is therefore asked to be withdrawn.

Claim 11 requires that each fin have at least one stop extending from a rear edge where the stop engages the interior surface of the sidewall and holds the fin in place when inserted into one of the slots formed in the sidewall. Claim 12 depends from claim 11 and adds the limitation that each slot have a catch attached to the interior surface. Claim 13 depends from claim 12 and sets forth that the stop on the fin is a pair of flanges and that the catch is a channel running the length of the slot. None of these limitations is disclosed by the Lutrex reference.

This is apparently not rebutted by the Examiner since he fails to point out anywhere in the final Office Action or Advisory Action what he considers to be the structures seen in the pictures of the Torx product or described in the associated writing on features and options that actually disclose these claimed elements. There being a lack of any support in this reference for these specific rejections, claim 11, 12 and 13 and any claims that depend from them should be allowed. Likewise, since one or more of the limitations in claims 11-13 are included in claim 28, its specific rejection should also be withdrawn.

Claims 19 and 29 set forth the requirements that each fin have first and second tabs extending from opposite ends of a rear edge so that a cap-rim fastened to the top-edge of the body of the housing can receive and capture each of the first tabs and a collar-rim fastened to the bottom-edge of the body can receive and capture each of the second tabs. In this manner, each fin is held in place by the cap-rim and collar-rim. No tabs on a rear edge of the blades for the Torx lighting fixture is disclosed by the Lutrex reference. Furthermore, no cap-rim or collar-rim fastened to the body of the ballast housing is shown or described in the reference capable of receiving and capturing such tabs. Absent these features, the specific rejections of claims 19 and 29 are traversed.

Rejection of Claims 14 and 16 under 35 U.S.C. §103(a)

Claims 14 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Lutrex reference and further in view of Blandford. Any combination or modification of the prior art needed to establish obviousness must teach or suggest each and every one of the limitations set forth in the claims being rejected. MPEP §2143.03. Claims 14 and 16 depend from claims 1, 11, 12 and 13. As pointed out above with respect to the allowability of claims 1 and 11-13, limitations in each of those claims is not taught or suggested by the Lutrex reference. These deficiencies are not cured, however, by the secondary reference to Blandford.

Blandford is directed to a shutter 10 for use with a light source comprising two halves. Each half has two sections 12, 16 that retain a reflector liner 20 between a first lip 50 and a second lip 48. Attachment of second section 16 to first section 12 allows the reflector liner 20 to be precisely and correctly captured between the two sections and to be held firmly against their inner receiving surfaces 14, 18. (Blandford at col. 5, lines 17-66). While first section 12 is provided with fins 22 on its upper surface, these fins are an integral part of first section 12 since first section 12 is an extruded piece of aluminum. (Blandford at col. 5, lines 24-27).

No sidewall of a housing for a light fixture having fin-engaging elements is taught or suggested in Blandford. The housing referred to by the Examiner in the final Office Action is the reflector liner, not the lamp housing. Even if it was, this liner has no fin-engaging elements. Neither is any fin-engaging element shown on either the first section 12 or on the UV lamp housing (not shown).

Moreover, since fins 22 are unitary with first section 12, not one fin is disclosed as being removably engaged to any fin-engaging element. In addition, this reference offers no teachings, enabling or otherwise, directed to (1) slots formed in the sidewall of the housing; (2) fins having at least one stop extending from a rear edge, much less where the stop is a pair of flanges; and (3) catches attached to the interior surface of the sidewall, much less where each catch is a channel running the length of the corresponding slot.

In addition, contrary to the representation made by the Examiner in the final Office Action, the set screw of claim 14 supposedly disclosed by Blandford as being inserted in one end of a channel attached to the interior of the housing between the channel and one of the flanges on the fin received by that channel is instead a clamping bolt 46 inserted through bolt holes 49 provided on second section 16 for the purpose of attaching first section 12 to second section 16 of shutter 10. (Blandford at col. 6, lines 4-9). No fins secured firmly in channels by the bolts is taught or suggested by the reference.

Claim 16 adds the limitation that at least one strip including LED elements be secured between at least one fin made from translucent material and a channel on the interior surface of the housing so that the strip's light is received by the fin. Neither Lutrex nor Blandford teach or suggest an LED strip or a transparent fin, much less such a strip secured between the fin and a channel on the housing. While the Examiner contends that replacement of incandescent or fluorescent lamps with LED elements was known to one skilled in the art at the time of this invention, this serves as no motivation for any modification of the prior art cited since no incandescent/fluorescent lamps illuminating a transparent fin are taught or suggested in Lutrex or Blandford for which such a replacement may have been obvious.

Obviousness under 35 U.S.C. §103(a) can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. In re Jones, 958 F.2d 347 (Fed. Cir. 1992). There must be more of a justification for modifying a piece of prior art than solely the fact that it happened to have been known at the time of the invention. The mere fact that a reference can be modified does not render the resultant modification obvious unless the prior art also suggests the desirability of the modification. MPEP §2143.01.

This lack of any showing by the Examiner of the motivation needed for one skilled in the art to select and then combine the Lutrex Products reference with Blandford, along with the other reasons discussed above, establishes that a prima facie case of obviousness has not been made by him to maintain the rejections of claims 14 and 16. Applicant believes therefore that these rejections should also be withdrawn and that each of these claims and any claims depending from them be allowed.

Conclusion

Applicant believes that claims 1-30 each include several elements not disclosed or suggested in the prior art. Applicant respectfully submits that all rejections in the final Office Action of October 18, 2005 have been traversed by argument, placing the application in condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard W. White", is written over a horizontal line.

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